



Reprinted
February 15, 2001

HOUSE BILL No. 1928

DIGEST OF HB 1928 (Updated February 14, 2001 4:39 PM - DI 101)

Citations Affected: IC 4-30; IC 6-2.1; IC 8-1; IC 13-11.

Synopsis: Procedures for small water or sewer utilities. Exempts gross income received by a not-for-profit sewer utility from the state gross income tax. Requires a not-for-profit sewer utility to include in a petition for a rate change a statement as to whether it has an outstanding indebtedness to the federal government. Allows the Indiana utility regulatory commission to adopt rules or issue orders that establish regulatory procedures or standards governing a public or municipally owned water or sewer utility that: (1) serves less than 5,000 customers; (2) primarily provides retail service to customers; and (3) does not serve extensively another utility. Provides that a not-for-profit sewer utility may receive funds from the build Indiana fund, the wastewater revolving loan fund, and the drinking water revolving loan fund.

Effective: July 1, 2001.

Crooks

January 17, 2001, read first time and referred to Committee on Commerce, Economic Development and Technology.
February 8, 2001, amended, reported — Do Pass.
February 14, 2001, read second time, amended, ordered engrossed.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1928

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-30-17-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this
3 chapter, "eligible applicant" means the following:

4 (1) Any entity with the authority to impose ad valorem property
5 taxes except townships, including counties, cities, towns, special
6 taxing districts, school corporations, and any other entity that is
7 granted by statute or ordinance a right to impose user fees or
8 charges (referred to as political subdivisions in this chapter) as
9 long as the application is signed by the executive of the political
10 subdivision.

11 (2) The state, as long as the application is signed by the governor.

12 (3) State funded institutions of higher education, as long as the
13 application is approved by the higher education commission.

14 **(4) A not-for-profit sewer utility (as defined in IC 8-1-2-125).**

15 SECTION 2. IC 4-30-17-4.1 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.1. (a) Money required
17 to be credited to the state and local capital projects account may be

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used only for state and local capital projects or for deposit in a revolving loan fund that may only be used for capital projects. Capital projects include the construction of airports, airport facilities, and local street and road projects. A state project is a capital project that is proposed by the state or the ~~higher education commission~~. **commission for higher education**. A local project is a capital project proposed by a political subdivision **or a not-for-profit sewer utility (as defined in IC 8-1-2-125)**. An airport development project that is eligible for a grant or loan under IC 8-21-11 is a local capital project.

~~(d)~~ **(b)** The money required to be credited to the state and local capital projects account must be used to promote the maximum use of other funds for capital projects, including using local matching requirements, the consideration of various kinds of credit enhancements, and the remarketing of debt issues secured by money in the state and local capital projects account.

SECTION 3. IC 6-2.1-3-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33. Gross income received by:

- (1) a conservancy district established under IC 14-33-20 or under IC 13-3-4 (before its repeal);
- (2) a regional water, sewage, or solid waste district established under IC 13-26 or IC 13-3-2 (before its repeal);
- (3) a nonprofit corporation formed solely for the purpose of supplying water to the public;
- (4) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal); or
- (5) a nonprofit corporation formed for the purpose of providing:
 - ~~a combination of:~~
 - (A) water; ~~and~~
 - (B) sewer and sewage service; **or**
 - (C) a combination of water and sewer and sewage service;**

to the public;

is exempt from the gross income tax.

SECTION 4. IC 8-1-2-61.5, AS AMENDED BY P.L.159-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 61.5. (a) An order affecting rates of service may be entered by the commission without a formal public hearing in the case of any public or municipally owned utility that:

- (1) serves less than five thousand (5,000) customers;
- (2) primarily provides retail service to customers; and
- (3) does not serve extensively another utility.



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(b) The commission may require a formal public hearing on any petition or complaint filed under this section concerning a rate change request by a utility upon its own motion or upon motion of any of the following:

- (1) The utility consumer counselor.
- (2) A public or municipal corporation.
- (3) Ten (10) individuals, firms, limited liability companies, corporations, or associations.
- (4) Ten (10) complainants of any class described in this subsection.

(c) A not-for-profit water utility **or a not-for-profit sewer utility** must include in its petition a statement as to whether it has an outstanding indebtedness to the federal government. When an indebtedness is shown to exist, the commission shall require a formal hearing, unless the utility also has included in its filing written consent from the agency of the federal government with which the utility has outstanding indebtedness for the utility to obtain an order affecting its rates from the commission without a formal hearing.

(d) Notwithstanding any other law, the commission may:

- (1) on its own motion; or**
- (2) at the request of:**
 - (A) the utility consumer counselor;**
 - (B) a water or sewer utility described in subsection (a);**
 - (C) ten (10) individuals, firms, limited liability companies, corporations, or associations; or**
 - (D) ten (10) complainants of any class described in this subsection;**

adopt a rule under IC 4-22-2, or issue an order in a specific proceeding, providing for the development, investigation, testing, and use of regulatory procedures or generic standards with respect to water or sewer utilities described in subsection (a) or their services.

(e) The commission may adopt a rule or enter an order under subsection (d) only if it finds, after notice and hearing, that the proposed regulatory procedures or standards are in the public interest and promote at least one (1) of the following:

- (1) Utility cost minimalization to the extent that a utility's quality of service or facilities are not diminished.**
- (2) A more accurate evaluation by the commission of a utility's physical or financial conditions or needs.**
- (3) A less costly regulatory procedure for a utility, its consumers, or the commission.**



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1 **(4) Increased utility management efficiency that is beneficial**
 2 **to consumers.**

3 SECTION 5. IC 13-11-2-164 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 164. (a) "Political
 5 subdivision", for purposes of IC 13-18-13, means:

6 (1) a political subdivision (as defined in IC 36-1-2);
 7 (2) a regional water, sewage, or solid waste district organized
 8 under:

9 (A) IC 13-26; or

10 (B) IC 13-3-2 (before its repeal July 1, 1996); ~~or~~

11 (3) a local public improvement bond bank organized under
 12 IC 5-1.4; **or**

13 **(4) a not-for-profit sewer utility (as defined in IC 8-1-2-125).**

14 (b) "Political subdivision", for purposes of IC 13-18-21, means:

15 (1) a political subdivision (as defined in IC 36-1-2);

16 (2) a regional water, sewage, or solid waste district organized
 17 under:

18 (A) IC 13-26; or

19 (B) IC 13-3-2 (before its repeal July 1, 1996);

20 (3) a local public improvement bond bank organized under
 21 IC 5-1.4;

22 ~~(4) a qualified entity described in IC 5-1.5-1-8(4) that is a public~~
 23 ~~water not-for-profit utility described (in IC 8-1-2-125; a~~
 24 **not-for-profit utility (as defined in IC 8-1-2-125); or**

25 (5) a conservancy district established for the purpose set forth in
 26 IC 14-33-1-1(a)(4).

27 (c) "Political subdivision", for purposes of IC 13-19-5, has the
 28 meaning set forth in IC 36-1-2-13 and includes a redevelopment district
 29 under IC 36-7-14 or IC 36-7-15.1.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1928, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-30-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this chapter, "eligible applicant" means the following:

(1) Any entity with the authority to impose ad valorem property taxes except townships, including counties, cities, towns, special taxing districts, school corporations, and any other entity that is granted by statute or ordinance a right to impose user fees or charges (referred to as political subdivisions in this chapter) as long as the application is signed by the executive of the political subdivision.

(2) The state, as long as the application is signed by the governor.

(3) State funded institutions of higher education, as long as the application is approved by the higher education commission.

(4) A not-for-profit sewer utility (as defined in IC 8-1-2-125).

SECTION 2. IC 4-30-17-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.1. (a) Money required to be credited to the state and local capital projects account may be used only for state and local capital projects or for deposit in a revolving loan fund that may only be used for capital projects. Capital projects include the construction of airports, airport facilities, and local street and road projects. A state project is a capital project that is proposed by the state or the ~~higher education commission~~. **commission for higher education**. A local project is a capital project proposed by a political subdivision **or a not-for-profit sewer utility (as defined in IC 8-1-2-125)**. An airport development project that is eligible for a grant or loan under IC 8-21-11 is a local capital project.

~~(d)~~ **(b)** The money required to be credited to the state and local capital projects account must be used to promote the maximum use of other funds for capital projects, including using local matching requirements, the consideration of various kinds of credit enhancements, and the remarketing of debt issues secured by money in the state and local capital projects account.

SECTION 3. IC 6-2.1-3-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33. Gross income

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received by:

- (1) a conservancy district established under IC 14-33-20 or under IC 13-3-4 (before its repeal);
- (2) a regional water, sewage, or solid waste district established under IC 13-26 or IC 13-3-2 (before its repeal);
- (3) a nonprofit corporation formed solely for the purpose of supplying water to the public;
- (4) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal); or
- (5) a nonprofit corporation formed for the purpose of providing:
 - ~~a combination of:~~
 - (A) water; ~~and~~
 - (B) sewer and sewage service; **or**
 - (C) a combination of water and sewer and sewage service;**
 to the public;

is exempt from the gross income tax."

Page 2, after line 35, begin a new paragraph and insert:

"SECTION 2. IC 13-11-2-164 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 164. (a) "Political subdivision", for purposes of IC 13-18-13, means:

- (1) a political subdivision (as defined in IC 36-1-2);
- (2) a regional water, sewage, or solid waste district organized under:
 - (A) IC 13-26; or
 - (B) IC 13-3-2 (before its repeal July 1, 1996); ~~or~~
- (3) a local public improvement bond bank organized under IC 5-1.4; **or**
- (4) a not-for-profit sewer utility (as defined in IC 8-1-2-125).**

(b) "Political subdivision", for purposes of IC 13-18-21, means:

- (1) a political subdivision (as defined in IC 36-1-2);
- (2) a regional water, sewage, or solid waste district organized under:
 - (A) IC 13-26; or
 - (B) IC 13-3-2 (before its repeal July 1, 1996);
- (3) a local public improvement bond bank organized under IC 5-1.4;
- (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public water not-for-profit utility described (in IC 8-1-2-125; a not-for-profit utility (as defined in IC 8-1-2-125); or**
- (5) a conservancy district established for the purpose set forth in IC 14-33-1-1(a)(4).



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(c) "Political subdivision", for purposes of IC 13-19-5, has the meaning set forth in IC 36-1-2-13 and includes a redevelopment district under IC 36-7-14 or IC 36-7-15.1.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1928 as introduced.)

FRY, Chair

Committee Vote: yeas 13, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1928 be amended to read as follows:

Page 3, line 11, after "utility" insert "or a not-for-profit sewer utility".

(Reference is to HB 1928 as printed February 9, 2001.)

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